



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

FINAL AMENDED
FACT SHEET FOR H.B. 2617

Israel; boycotts; contracts; investments

Purpose

Prohibits a public entity from entering into a contract with a company unless the contract includes written certification that the company is not engaged in a boycott of Israel.

Background

Federal law authorizes the issuance of regulations prohibiting any United States person, with respect to the activities of that person in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take certain actions with the intent to comply with, further or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation (50 United States Code Section 4607).

A number of states have considered legislation aimed at divesting state funding from companies that engage in a boycott of Israel. States where such legislation has been enacted include Illinois and South Carolina.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Contracting, Procurement and Investment Prohibition

1. Prohibits a public entity from entering into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel.
2. Prohibits a public entity from adopting a procurement, investment or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

Restricted Companies

3. Requires each public fund, on or before April 1 of each year, to prepare a list of restricted companies and to provide a copy of the list on request.

4. Allows the public fund, in preparing the list of restricted companies, to consider at least the following:
 - a) publicly available information, including information provided by nonprofit organizations, research firms and government entities;
 - b) information prepared by an independent research firm retained by the public fund; and
 - c) a statement by a company that it is participating in a boycott of Israel or that it has taken a boycott action at the request of, in compliance with or in furtherance of calls for a boycott of Israel.
5. Requires the public fund to notify each company that is included in the list of restricted companies that the company is subject to divestment by the State Treasurer and the retirement systems.
6. Specifies that if a company that receives notice of its inclusion on the list of restricted companies submits a written certification to the public fund that it has ceased its boycott of Israel and will not engage in a boycott of Israel for the period of time that the State Treasurer or a retirement system invests in the company, then the public fund shall remove the company from the list.
7. Requires each public fund to do the following:
 - a) sell, redeem, divest or withdraw all direct holdings of a restricted company from the assets under its management in an orderly and fiducially responsible manner within three months after preparing the list of restricted companies on its website;
 - b) not acquire securities of a restricted company as part of its direct holdings; and
 - c) request that managers of its indirect holdings consider selling, redeeming, divesting or withdrawing holdings of a restricted company from the assets that are under its management.
8. Requires the State Treasurer and each retirement system to post on their websites, on or before April 1 of each year, a list of investments that are sold, redeemed, divested or withdrawn.
9. Specifies the following with respect to any action performed by the State Treasurer, each retirement system and any person acting on behalf of the State Treasurer or the retirement system:
 - a) that the State Treasurer, each retirement system and any person acting on behalf of either are exempt from any conflicting statutory or common law obligation or fiduciary duties with respect to choice of asset manager, investment funds or investments;
 - b) that the State Treasurer, each retirement system and any person acting on behalf of either are subject to Title 12, Chapter 7, Article 2, pertaining to actions against public entities or public employees;
 - c) that the State Treasurer, each retirement system and any person acting on behalf of either are indemnified and held harmless by this state from claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including attorney fees, as well as against all liability, losses and damages due to a decision involving the sale, redemption, divestment or withdrawal of holdings of a restricted company.

Definitions

10. Defines *boycott* as engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - a) in compliance with or adherence to calls for a boycott of Israel other than those boycotts to which federal law applies; or
 - b) in a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
11. Defines *company* as a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
12. Defines *direct holdings* as all publicly traded securities of a company that are held directly by the State Treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
13. Defines *indirect holdings* as all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the State Treasurer or a retirement system, if the State Treasurer or retirement system owns shares or interests either:
 - a) together with other investors; or
 - b) that are held in an index fund.
14. Defines *public entity* as this state, a political subdivision of this state or an agency, board, commission or department of this state or a political subdivision of this state.
15. Defines *public fund* as the State Treasurer or a retirement system.
16. Defines *restricted companies* as companies that boycott Israel.
17. Defines *retirement system* as a retirement plan or system that is established by or pursuant to Title 38, pertaining to public officers and employees.

Miscellaneous

18. Contains a severability clause.
19. Contains a legislative findings clause.
20. Makes technical changes.
21. Becomes effective on the general effective date.

Amendments Adopted by the Finance Committee

1. Adds the prohibition on a public entity adopting a procurement, investment or other policy to induce or require a person or company to boycott Israel.
2. Replaces the requirement for each public fund to prepare a list of restricted companies and to post the list on its website with one requiring that the public fund provide a copy of such a list on request.

House Action

FSR	2/10/16	DPA	6-0-0
3 rd Read	2/17/16		46-14-0

Senate Action

FMFR	3/1/16	DP	5-2-0
GOV	3/2/16	DP	5-1-1
FIN	3/9/16	DPA	4-1-0
3 rd Read	3/10/16		23-6-1

Signed by the Governor 3/17/16
Chapter 46

Prepared by Senate Research
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FB/rf